

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DENNIS SHIPMAN, et al.,

Plaintiffs,

v.

ALDO GELSO, et al.,

Defendants.

CIVIL ACTION NO. 3:11-CV-1162

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SMYSER)

**ORDER**

**NOW** this 5<sup>th</sup> day of June, 2012, upon review of the Report and Recommendation of Magistrate Judge J. Andrew Smyser (Doc. 22) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 22) is **ADOPTED**;
- (2) The Gelso Defendants' Motion to Dismiss is **GRANTED** as to the Plaintiffs' Negligence claim;
- (3) The Gelso Defendants' Motion to Dismiss is **DENIED** in all other respects; and
- (4) This matter is **RECOMMITTED** to the Magistrate Judge.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge